

36 1 (v) allocating a portion of a purchase price of the softgood set by terms of a  
2 prior agreement to a creator of the softgood.  
3

4 REMARKS

5 Status of the Claims

6 Claims 1-20, 22-41, and 45-47 are pending in the present application. The Examiner has  
7 withdrawn Claims 42-44 from consideration as being drawn to a non elected invention. Claims 21,  
8 42, 43, and 44 have been cancelled, and new Claims 45-47 have been added in the present  
9 amendment. Claims 8, 20, 22-25, 32, and 35 have been amended to more clearly define the  
10 invention.

11 Obviousness Rejection Based on the Combination of Wiser and Korth

12 The Examiner has rejected Claims 1-4, 6-8, 10-12, 14, 15, 17-19, 35, 36, and 39-41 under  
13 35 U.S.C. § 103(a) as being unpatentable over Wiser (U.S. Patent No. 6,385,596) in view of Korth  
14 (*Database Systems Concepts*). The Examiner asserts that while neither of the cited references  
15 discloses an identical invention, each reference discloses portions of the claimed invention, and when  
16 combined, the combination of prior art references discloses all of the recited elements. With respect  
17 to Wiser, the Examiner asserts that Wiser discloses providing a program to a creator of softgoods,  
18 unique identifiers, distributing softgoods to prospective purchasers, and providing an agency. The  
19 Examiner admits that Wiser does not disclose a unique identifier that specifically references the  
20 creator of the softgoods, using such unique identifiers in a database to track softgood purchases, or  
21 maintaining the database for as long as an agency manages the softgoods. The Examiner indicates  
22 that Korth discloses managing a database by using primary keys that distinguish between various  
23 entities in a set, and concludes that it would have been obvious to utilize the keys disclosed by Korth  
24 in the database disclosed by Wiser. The Examiner then asserts that it would be obvious to maintain  
25 such a database for as long as an agency manages related softgoods and concludes that a combination  
26 of Wiser and Korth achieves the claimed invention. Applicants respectfully disagree for the  
27 following reasons.

28 **Independent Claim 1 is Distinguishable over the Suggested Combination**

29 Claim 1 specifically recites that softgoods, which are distributed to prospective purchasers  
30 and then purchased, are unchanged as a result of the purchase transaction. The process described by  
31 Wiser does not provide the same softgood to prospective purchasers as is provided to actual  
32 purchasers. Wiser describes previewing and purchasing as distinctly different processes, and teaches  
33 that different data are provided to a user during each process. Wiser describes the previewing  
34 process, starting at column 14, line 36 and continuing through column 16, line 25. Significantly,  
35 media data file 200 *is not* made available for download by the prospective purchaser. Instead,

1 streaming audio is established between a delivery server 118 and the user's media player 116,  
2 allowing the user to preview an audio image 208. Wiser specifically teaches that different audio  
3 images 208 can be included in a single media data file 200, so that relatively low quality preview  
4 images as well as high fidelity audio images can be included in the same media data file 200. Thus,  
5 even if a user were able to capture the streaming audio, such captured audio data would be of a lower  
6 quality, comprising a preview audio image. Wiser specifically discloses that a media data file 200  
7 will likely include free data, such as liner notes, and that during a preview, the free portion of the  
8 media data file 200 is available for download. Clearly, the entire media data file 200 is not available  
9 for download by a prospective purchaser, until the purchase is completed.

10 With respect to purchasing, Wiser teaches that when a user actually purchases a media data  
11 file 200, the media data file 200 is licensed to that specific user. Wiser describes the purchasing  
12 process starting at column 16, line 26 and continuing through column 20, line 8. Significantly, Wiser  
13 describes that each media data file 200 is altered prior to delivery to a customer. As described by  
14 Wiser, each media data file 200 is stored in master media file system 120, and is encrypted using a  
15 public key of content manager 112 (column 7, lines 38-46). Prior to delivery, the purchased media  
16 data file 200 is processed to remove the public key of content manager 112, and is re-encrypted using  
17 a public key of the user's media player. To play the purchased media data file 200 requires the user's  
18 passport. Wiser specifically teaches that passport information will be displayed in the player  
19 whenever the softgood is used (column 9, lines 16-18). This deters free distribution, as users are  
20 likely to be reluctant to provide another person with a softgood that displays such personal  
21 information when played. Also, the private key specific to the user's player is required to decrypt the  
22 purchased media data file. Note also that different purchasers will have different "versions" of the  
23 same media data file 200, in that each purchaser will have a version that is encrypted using their own  
24 player's public key. In contrast, applicants' method freely distributes identical versions of softgoods.

25 Because the streaming preview provided to a prospective purchaser is different than a  
26 purchased media data file 200 encrypted with the public key of the purchaser's media player, Wiser  
27 does not disclose "softgoods that were distributed to the prospective purchasers and then purchased  
28 being unchanged as a result of a purchase transaction." In the cited prior art, each purchaser receives  
29 a softgood that is uniquely changed based on the purchaser's media player's public key. According  
30 to Wiser, only limited portions of a softgood are available for download for preview by prospective  
31 purchasers, not the softgood in its entirety. Thus, even if the references were to be combined in the  
32 manner suggested by the Examiner, an invention equivalent to that claimed by applicants would not  
33 be achieved.

34 Claim 1 can be further distinguished over the proposed combination by noting that the  
35 specific "key" recited by applicants is not taught or suggested in the cited art. With respect to

1 establishing some motivation for a combination of Wiser and Korth, the Examiner does not cite any  
2 sections of Wiser or Korth that teach or suggest the desirability of making the combination. It  
3 appears the Examiner is asserting that some implied motivation existed because one of ordinary skill  
4 in the art would desire to identify various softgoods in the databases employed by Wiser, and thus  
5 would have used the keys described by Korth.

6 However, as described by Korth, keys are a fundamental component of databases, and are  
7 used to enable elements of a database to be located. It appears likely that Wiser's databases already  
8 employ keys. For example, the title of each song might well be a primary key in the databases of  
9 Wiser (since most songs are likely to have a different title, song titles can be used to uniquely identify  
10 records in the database). Korth specifically teaches that a plurality of different keys can exist, based  
11 on the nature of the data in the database. A more relevant analysis appears to be whether the cited art  
12 teaches or suggests the specific "key" recited by applicants' claims for use in their database.

13 Claim 1 specifically recites a unique identifier (i.e., a key) that not only identifies a specific  
14 softgood, but also indicates the creator of the softgood. Neither Wiser nor Korth teach or suggest an  
15 identifier that simultaneously identifies both a softgood and its creator. While Korth teaches that  
16 keys can include more than one element (i.e., a name and a social security number), there is simply  
17 no evidence to support a conclusion that one of ordinary skill would have recognized any particular  
18 problem that could be solved in the prior art by using an identifier that both identifies a specific  
19 softgood and indicates the creator of the softgood. The proposed combination of Wiser and Korth  
20 would not provide the unique identifier recited by applicants claims. Thus, an invention equivalent to  
21 that claimed by applicants would not be achieved without further modification, and there is no  
22 support in the art that such modification would have been obvious, except through hindsight.

23 Accordingly, Claim 1 is patentably distinguishable over the cited art. There appears to be no  
24 basis in the cited art to modify Wiser and Korth to achieve an equivalent to applicants' claimed  
25 invention. Because dependent claims are patentable for at least the same reasons as the claims from  
26 which they depend, Claims 2-7 are also patentable for at least the same reason as Claim 1.  
27 Accordingly, the rejection of Claims 1-7 under 35 U.S.C. § 103(a) as being obvious over Wiser in  
28 view of Korth should be withdrawn.

29 **Independent Claim 8 is Distinguishable over the Suggested Combination**

30 Claim 8 specifically recites that during preview, the prospective purchaser possesses a  
31 complete copy of the softgood, and the player program controls access to the softgood, such that  
32 during a preview of the softgood, the prospective purchaser is allowed only limited access to the  
33 softgood. Once the purchase has been completed, the registration value that is transmitted to the  
34 computer on which the program player is executed enables the program player to provide the  
35 purchaser full access to the softgood.

1 The claimed approach of applicants is clearly distinguishable from the audio content delivery  
2 approach described by Wiser. According to Wiser, the softgood is not "freely distributed." In fact,  
3 Wiser exerts significant control over the distribution of the softgood, prohibiting the distribution of a  
4 full copy of the softgood until the softgood has been purchased and licensed. Each distributed full  
5 copy requires a purchaser's confidential passport information to be displayed in the player whenever  
6 the softgood is used (column 9, lines 16-18). Thus, if a user provides his copy of the softgood to  
7 another person, the user must also provide his confidential passport information. This requirement of  
8 Wiser deters free distribution of the softgood, as users will likely be reluctant to freely distribute their  
9 passport information (indeed, Wiser specifically teaches that the passport information should include  
10 such highly personalized information as credit card information, identification number, etc., so that  
11 users will be loathe to distribute their passports to other parties). Claim 8 recites in the preamble that  
12 the softgoods associated with the present invention are "freely distributable." Wiser does not teach or  
13 suggest freely distributable softgoods. In fact, Wiser explicitly teaches against such free distribution,  
14 as discussed above.

15 Claim 8 recites that during preview, the prospective purchaser possesses a complete copy of the  
16 softgood, and it is the player program that controls access to the softgood. Until a prospective purchaser  
17 complete a purchase, and the computer on which the player program resides receives a registration value,  
18 the player program executing on that computer will only allow limited access to the softgood. After the  
19 registration value is received, the player program enables full access to the softgood. Wiser teaches that  
20 during preview, the prospective purchaser is not yet in possession of the full softgood. The prospective  
21 purchaser is provided streaming audio to sample the audio image, or a sub-portion (i.e. a free portion) of  
22 the complete media data file 200 is provided for download. As described by Wiser, the sub-portion  
23 may include an audio image that is of relatively low quality, liner notes, or other information of little  
24 commercial value.

25 Significantly, Wiser teaches that licensed copies are prevented from being freely distributable  
26 by ensuring that the purchaser's confidential passport information is displayed in the player whenever  
27 the softgood is used. Because purchasers will not want to distribute such passport information, the  
28 purchasers are inhibited from distributing full copies of the purchased softgood to third parties. In  
29 contrast, applicants desire the softgoods of the present invention to be as widely disseminated to other  
30 parties as possible. Users who have not purchased the softgood will only be able to play the softgood  
31 in a preview mode, until those users complete a purchase and receive the registration value required to  
32 allow the player program to enable full access to the softgood. If a purchaser gives a copy of the softgood  
33 to another user, the new user will not be able to have full access to the softgood, because (until the new  
34 user completes the purchase transaction and registration) the new user will not have the required  
35 registration value. One might argue the present invention is less secure, in that a knowledgeable hacker

1 could copy and distribute registration values, thereby enabling the freely distributed softgoods to be  
2 played on many different computers. However, the emphasis of the present invention is enhanced  
3 distribution with some security, as opposed to limited distribution with high security. There is a clear  
4 conceptual difference between Wiser's approach and that of the present invention. Wiser teaches that  
5 control of the distribution of softgoods is the most important consideration. In the present invention, wide  
6 distribution is seen as a benefit because more people become aware of the softgood by playing it in the  
7 preview mode, and the use of registration values to determine whether the player program will allow  
8 limited or full access to a softgood encourages the average consumer to purchase the softgood to  
9 experience its full benefits. Regardless of whether a user completes a purchase, the softgood itself can be  
10 freely distributed to other parties, without limitation, which is a distinctly different approach than that  
11 described by Wiser.

12 The cited art does not provide any suggestion that Wiser's disclosed approach should be modified  
13 to allow softgoods to be freely distributed, or to provide prospective purchasers with complete copies of  
14 the softgood. There is no evidence that such modifications would solve a problem recognized in the prior  
15 art. Claim 8 is therefore non-obvious and patentably distinguishable over the cited art. Because  
16 dependent claims are patentable for at least the same reasons as the claims from which they depend,  
17 Claims 9-19 are patentable for at least the same reason as Claim 8. Accordingly, the rejection of  
18 Claims 8-19 under 35 U.S.C. § 103(a) as being obvious over Wiser in view of Korth should be  
19 withdrawn.

#### 20 **Independent Claim 35 is Distinguishable over the Proposed Combination**

21 The Examiner admits that Wiser does not disclose a unique identifier that specifically  
22 references the creator of the softgoods, or using such unique identifiers in a database to track  
23 softgood purchases, or maintaining the database for as long as an agency manages the softgoods. As  
24 discussed above, the Examiner asserts that Korth discloses managing a database by using primary  
25 keys that distinguish between various entities in a set, and concludes that it would have been obvious  
26 to utilize the keys disclosed by Korth in the database disclosed by Wiser.

27 Claim 35 recites a unique identifier assigned to a softgood by a creator program. The  
28 Examiner appears to argue that such an identifier is a key like that used in Korth, and that combining  
29 Korth with Wiser achieves an invention equivalent that claimed by applicants. As discussed above in  
30 conjunction with Claim 1, there is no suggestion in the cited art of a key equivalent to the unique  
31 identifier assigned to a softgood by a creator program. There is no evidence to support a conclusion  
32 that one of ordinary skill would have recognized any particular problem that could be solved by  
33 utilizing a unique identifier assigned to a softgood by a creator program, as a database key.

34 Claim 35 further recites a registration value, such that without the registration a user is allowed  
35 only limited access to the softgood. Wiser does not describe a system in which access to a softgood is

1 controlled by a registration value on the computer of the user. According to Wiser, a full softgood is not  
2 distributed to a user's computer unless the softgood has been licensed. When a licensed softgood is  
3 played by a player program in Wiser, confidential personal information about the purchaser is  
4 required to be displayed by the player program, inhibiting the purchaser from freely distributing  
5 copies of the softgood to third parties. Wiser's player program does not control providing limited  
6 access to a softgood at all. The agency described by Wiser will provide sample downloads or sample  
7 streaming media for preview, but not a full copy of the softgood until a purchase has been made.  
8 Thus, no benefit would be provided if Wiser's system and method were modified to require a  
9 registration value on a user's computer to control access to a softgood by a player program. Once  
10 Wiser provides the softgood to a user, that user has full access.

11 Furthermore, Claim 35 specifically recites "a purchase of a softgood being initiated when a  
12 softgood is being used." According to Wiser, purchases are initiated when a user browses a list of  
13 available softgoods that are controlled by the e-commerce agency and stored in servers under the  
14 control of the agency. Users cannot fully access those softgoods until they have purchased them. To  
15 achieve the claimed invention, Wiser would need to be modified so that users have access to the full  
16 softgoods before they are purchased, which is completely contrary to Wiser's teachings. As  
17 discussed above, Wiser emphasizes security and strictly controlling the distribution of full copies of  
18 the softgoods. No combination of Wiser and Korth would achieve a system in which purchases are  
19 initiated by the use of the softgood to be purchased, because Wiser does not contemplate, and even  
20 teaches against, distributing full copies of the softgoods prior to their purchase.

21 There is no teaching or suggestion in the cited art that would lead to the modification required  
22 to achieve the present invention. Even if Wiser and Korth were combined as proposed, such a  
23 combination would lack the recited registration value used *by the player program to control access*  
24 *to the softgood*. There is no evidence of a problem with the disclosed prior art that might be  
25 recognized by those of ordinary skill, which could be solved by making such a combination and  
26 modification. Claim 35 is thus not obvious in view of the cited art for this additional reason.  
27 Because dependent claims are patentable for at least the same reasons as the claims from which they  
28 depend, Claims 36 and 39-41 are patentable for at least the same reason as Claim 35. Accordingly,  
29 the rejection of Claims 35, 36, and 39-41 under 35 U.S.C. § 103 as obvious over Wiser in view of  
30 Korth should be withdrawn.

### 31 **Obviousness Rejection Based on Ronning**

32 The Examiner has rejected Claims 20, 21, 24, and 31 under 35 U.S.C. § 103(a) as being  
33 unpatentable over Ronning (U.S. Patent No. 5,883,955). The Examiner asserts that while Ronning  
34 does not disclose an identical invention, rearranging elements involves only routine skill in the art,  
35 and such rearranging is all that is needed to achieve an invention equivalent to that defined by these

1 claims. Applicants respectfully disagree for the following reasons.

2 In referring to *In re Japikse*, the MPEP notes that "[T]he mere fact that a worker in the art  
3 could rearrange the parts of the reference device to meet the terms of the claims on appeal is not by  
4 itself sufficient to support a finding of obviousness. The prior art must provide a motivation or reason  
5 for the worker in the art, without the benefit of appellant's specification, to make the necessary  
6 changes in the reference device." *Ex parte Chicago Rawhide Mfg. Co.*, 223 USPQ 351, 353 (Bd. Pat.  
7 App. & Inter. 1984). It appears that the Examiner has concluded that because Ronning suggests that  
8 other interfaces are possible, the specific interface recited by applicants' claims is obvious. But that  
9 conclusion is not logical. Ronning specifically teaches a preferred interface and merely suggests that  
10 other interfaces are possible. Applicants' claims do indeed recite a very different interface (i.e., a  
11 player program from which a softgood can be previewed, purchased, and played). However, merely  
12 because Ronning suggests that other interfaces are possible provides no guidance to one of ordinary  
13 skill in the art to select the *specific* interface recited by applicants. Without the benefit of appellant's  
14 specification, there is nothing in the cited art that lead one of ordinary skill to the *specific* interface  
15 recited by applicants' claims, because the cited Ronning reference does not teach how to achieve the  
16 claimed interface.

17 Further, Claim 20 has been amended to incorporate the elements previously recited in  
18 Claim 21. With respect to the rejection of Claim 21, the Examiner admits that Ronning does not  
19 teach a registration value that identifies the creator program used to generate the softgood. The  
20 Examiner argues that because identification numbers are known, it would have been obvious to  
21 include the identification of the creator program in the registration value of a softgood. As the  
22 Examiner cites no art that discloses or even suggests such a step (i.e., including the identity of the  
23 creator in a registration value for a softgood), the Examiner's rejection is based on an implicit  
24 showing of obviousness. Such an implicit showing is acceptable only when it can be shown that the  
25 required modification would solve a problem recognized by those in the art. In this instance, there is  
26 no evidence supporting a conclusion that including the identity of the creator program in a  
27 registration value for a softgood solves any problem that would have been recognized by one of  
28 ordinary skill in the art, in view of the prior art cited. If there is no suggestion for making a required  
29 modification in the cited art, and if the required modification does not appear to provide a solution to  
30 a known problem, *prima facie* obviousness of the claimed invention is not supported. The prior art  
31 does not appear to provide any motivation or reason for a worker of ordinary skill in the art, without  
32 the benefit of applicants' specification, to make the necessary changes in the teaching of the prior art.  
33 Because dependent claims are patentable for at least the same reasons as the claims from which they  
34 depend, Claims 24 and 31 are patentable for at least the same reason as Claim 20. Accordingly, the  
35 rejection of Claims 20, 24 and 31 under 35 U.S.C. § 103 as being obvious in view of Ronning should



1 be withdrawn. Claim 21 has been cancelled, so its rejection is moot.

2 **Obviousness Rejection Based on the Combination of Ronning, Bernard, and Stefik**

3 The Examiner has rejected Claims 32 and 33 under 35 U.S.C. § 103(a) as being unpatentable  
4 over Ronning, in view of Bernard (U.S. Patent No. 5,918,213), and further in view of Stefik  
5 (U.S. Patent No. 5,629,980). The Examiner asserts that while none of the cited references discloses  
6 an identical invention, each reference discloses portions of the claimed invention, and when  
7 combined, the combination of prior art references discloses all of the recited elements. Applicants  
8 respectfully disagree for the following reasons.

9 Claim 32 has been amended to make it clear that the softgoods do not include any copy  
10 protection that prohibits the softgoods from being freely copied and freely distributed. A key element  
11 of the present invention is that the player program determines whether to play a softgood in a preview  
12 mode, or in a mode providing full access to the content and benefits of the softgood, based on a  
13 registration value that indicates the softgood has been purchased. According to Ronning, in the  
14 preview mode, a softgood cannot be copied, which is how Ronning protects the softgood from  
15 uncontrolled copying. Once the software is purchased and "unlocked," the ability to prevent  
16 uncontrolled copying is lost by Ronning. Users could make additional copies for distribution outside  
17 of the control of Ronning's system. Understanding that once a complete copy of a softgood is  
18 available, that users can make unlimited copies, Ronning and other prior art systems that deal with  
19 distributing softgoods in a network environment desire to tightly control the distribution of a full  
20 copy of a softgood until payment has been made. The present invention takes a distinctly different  
21 approach. Copies of the softgood are made readily available, and distribution of the softgood to other  
22 parties is encouraged. Control is established because the softgoods require a player program to be  
23 used. The player program was created so that if the player program cannot find a registration value  
24 for a particular softgood on a user's computer, the player program will only play the softgood in a  
25 preview mode. To be able to achieve full and unrestricted access to the softgood, a user must  
26 conduct a purchase transaction with an e-commerce agency (i.e. the remoter computer of claim 32)  
27 and thus obtain the registration value that allows the player program to provide full access to the  
28 softgood.

29 The cited art does not provide any suggestion or motivation that would lead one of ordinary  
30 skill in the art to embrace the free distribution of softgoods that can easily be copied. Ronning's  
31 preview softgoods cannot be copied to access their full capability until they have been purchased and  
32 unlocked. There does not appear to be any problem recognized in the art that would have obviously  
33 lead to the modification required to achieve the present claimed invention, and Claim 32 is patentably  
34 distinguishable over the cited art. Because dependent claims are patentable for at least the same  
35 reasons, Claim 33 is also patentable. Accordingly, the rejection of Claims 32-33 under



1 35 U.S.C. § 103 as obvious over Ronning in view of Bernard, further in view of Stefik should be  
2 withdrawn.

### 3 **Patentability of Dependent Claims**

4 The above discussion is primarily directed to the patentability of independent Claims 1, 8,  
5 19, 20, 32 and 35 and does not explicitly point out the reasons why the dependent claims are  
6 specifically patentable over the prior art. Applicants' decision not to discuss the patentability of  
7 the dependent claims in detail should not be construed as an indication that the dependent claims do  
8 not recite patentable subject matter. Applicants believe that such a thorough analysis of *each*  
9 dependent claim is not necessary at this time. However, the reasons why selected dependent claims  
10 distinguish over the cited art are briefly discussed below.

11 This discussion addresses the following rejections:

- 12 • The rejection of Claim 16 under 35 U.S.C. § 103(a) as being unpatentable over Wiser  
13 (U.S. Patent No. 6,385,596) in view of Ronning (U.S. Patent No. 5,883,955).
- 14 • The rejection of Claims 5 and 38 under 35 U.S.C. § 103(a) as being unpatentable over  
15 Wiser (U.S. Patent No. 6,385,596) in view of Korth (*Database Systems Concepts*),  
16 further in view of Stefik (U.S. Patent No. 5,629,980).
- 17 • The rejection of Claims 9, 13, and 37 under 35 U.S.C. § 103(a) as being unpatentable  
18 over Wiser (U.S. Patent No. 6,385,596) in view of Stefik (U.S. Patent No. 5,629,980).
- 19 • The rejection of Claims 22-23 under 35 U.S.C. § 103(a) as being unpatentable over  
20 Ronning (U.S. Patent No. 5,883,955) in view of Richardson (U.S. Patent  
21 No. 5,490,216).
- 22 • The rejection of Claims 25-29 under 35 U.S.C. § 103(a) as being unpatentable over  
23 Ronning (U.S. Patent No. 5,883,955) in view of Bernard (U.S. Patent No. 5,918,213),  
24 further in view of *Microsoft Computer Dictionary*.
- 25 • The rejection of Claim 30 under 35 U.S.C. § 103(a) as being unpatentable over  
26 Ronning (U.S. Patent No. 5,883,955) in view of *Microsoft Computer Dictionary*.
- 27 • The rejection of Claim 34 under 35 U.S.C. § 103(a) as being unpatentable over  
28 Ronning (U.S. Patent No. 5,883,955) in view of Bernard (U.S. Patent No. 5,918,213),  
29 further in view of Stefik (U.S. Patent No. 5,629,980) and Richardson (U.S. Patent  
30 No. 5,490,216).

### 31 **Dependent Claim 2 is Distinguishable over the Suggested Combination**

32 Claim 2 recites that the unique identifier also specifically identifies the program provided to  
33 the creator of the softgood. The Examiner has asserted that unique serial numbers are well known,  
34 and can be used to identify anything a vendor desires and concludes that it would have been  
35

1 obvious to incorporate the recited unique identifier into the softgoods of Wiser and Korth.  
2 Applicants disagree for the following reasons.

3 Wiser and Korth do not suggest a unique identifier associated with a softgood that identifies  
4 the softgood, the creator of the softgood, *and the program* used by the creator to generate the  
5 softgood. There is no evidence of any problem recognized in the art that could obviously be solved  
6 by a serial number or identification number used to simultaneously identify the softgood, the creator,  
7 and the program used to create the softgood. Other than hindsight, it is not clear why one of ordinary  
8 skill in the art would have chosen to use serial numbers to not only identify a softgood, but also the  
9 program that was used to create the softgood. As is made clear in MPEP 2143, the mere fact that an  
10 identifier *could* have been used to identify a softgood and the program used to create the softgood  
11 does not support a *prima facie* rejection for obviousness, unless the prior art also suggests the  
12 desirability of making such a combination. In the present case, the cited art does not teach or suggest  
13 the desirability of identifying a program used to create a softgood. Accordingly, Claim 2 is clearly  
14 distinguishable over the combination of Wiser and Korth, and the rejection of Claim 2 should be  
15 withdrawn for this additional reason. .

#### 16 **Dependent Claim 41 is Distinguishable over the Proposed Combination**

17 Claim 41 recites additional detail about how the registration value stored on a user's  
18 computer controls access to a softgood. Without a registration value, a user can preview the  
19 softgood. With the registration value the user can access the softgood to the full extent set by the  
20 terms of the license issued to the user when the softgood was purchased and the registration value  
21 was sent to the user's computer. As discussed in detail above, Wiser describes a system in which  
22 preview is provided as streaming data, or an incomplete portion of a softgood. Wiser does not  
23 disclose a registration value residing on the user's computer for use in controlling access to the  
24 softgood. According to Wiser, once a softgood is resident on a user's computer, unrestricted access  
25 is allowed.

26 There is not any teaching or suggestion in the cited art that would lead to the modification  
27 required to achieve the invention claimed by applicants. Even if Wiser and Korth were combined as  
28 proposed, such a combination would lack the recited registration value used by the player program to  
29 control access to the softgood. There is no evidence of a problem that might be recognized by those  
30 of ordinary skill in the art that could be solved by making such a combination and modification, and  
31 Claim 41 is not obvious in view of the cited art for this additional reason. Accordingly, the rejection  
32 of Claim 41 should be withdrawn.

#### 33 **Patentability of Newly Added Claims**

34 New Claims 45-47 have been added by the present amendment. Applicants have drafted  
35 these claims based on the content of originally filed and pending claims, and have added additional

1 elements to clearly distinguish the present invention over the cited art. These additional claims are so  
2 closely related to the originally filed claims that there is not reason for them to be treated as directed  
3 to any non-elected invention.

4 Claim 45 is based on Claim 1, and recites additional details and steps carried out by the  
5 creator (or composer) program. These additional steps indicate that softgoods created by the creator  
6 program require a specific player program to be accessed, and that the softgoods created by the  
7 creator program do not include any copy protection that prohibits the softgood from being freely  
8 copied and freely distributed. Claim 45 also adds the step of providing the specific player program.  
9 Each time the player program is used to play a softgood created using the composer program, the  
10 player program automatically looks for a registration value, and if a registration value is found, full  
11 access to the softgood is enabled. However, if no registration value is found, then the access to the  
12 softgood is restricted to a preview. These additional details and steps are fully described in applicants'  
13 specification, and thus are fully supported. Further, these elements (freely distributed softgoods, player  
14 programs, registration values, preview access and full access) have already been recited in and discussed  
15 with respect to other claims, and thus do not raise any new issue that might require a new or further  
16 search.

17 Claim 46 depends on Claim 45, and recites that if no registration value is found, the agency is  
18 queried to determine if a user has already purchased the softgood, and if so, full access to the  
19 softgood is enabled.

20 Claim 47 is based on Claim 32, and adds additional elements, such as freely distributed  
21 softgoods, player programs, registration values, preview access, and full access. Each of these elements  
22 have already been discussed with respect to other claims. Claim 47 does not raise any new issue that  
23 would require an additional search.

24 Claims 45-47 distinguish over the cited art because they describe distribution and access of  
25 softgoods in a manner not taught or suggested in the cited art. Most of the cited art teaches that the  
26 free distribution of an entire softgood, which can easily be copied, is undesirable. The prior art  
27 teaches that distribution is to be tightly controlled until payment has been made. In the present  
28 invention, full copies of the softgood are made readily available to other parties, and distribution to  
29 other parties is encouraged. Control is established because the softgoods require a player program to  
30 be used to access the softgood content. The player program was created such that if the player  
31 program cannot find a registration value for a particular softgood on a user's computer, the player  
32 program will only play the softgood in a preview mode. To be able to achieve greater and less  
33 restricted access to the softgood, a user must conduct a purchase transaction with an e-commerce  
34 agency (i.e. the remoter computer of Claims 32/47) and thereby obtain the registration value required  
35 to achieve full access of the softgood. The cited art does not teach or suggest distributing softgoods

1 in an equivalent manner.

2 In consideration of the preceding remarks, it will be apparent that all claims in this application  
3 recite patentable subject matter and that the case is in condition for allowance. The Examiner is  
4 therefore requested to pass this application to Issue without further delay. In the event that any  
5 questions remain unresolved, the Examiner is invited to telephone applicants' attorney at the number  
6 listed below.

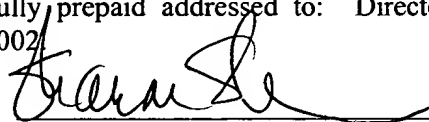
7 Respectfully submitted,

8   
9

10 Ronald M. Anderson  
11 Registration No. 28,829  
12

13 I hereby certify that this correspondence is being deposited with the U.S. Postal Service in a sealed  
14 envelope as first class mail with postage thereon fully prepaid addressed to: Director of Patents and  
15 Trademarks, Arlington, VA 22202, on December 24, 2002.

16 Date: December 24, 2002

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1 MARKED-UP VERSION OF THE AMENDMENTS

2  
3 Amendment to the Claims

4 In the Claims:

5 Please cancel Claims 21, 42, 43, and 44.

6 Please amend Claims 8, 20, 22-25, 32, and 35 as follows:

7 8. (Twice Amended) A method for facilitating purchase of a softgood that is freely distributed  
8 to prospective purchasers for preview within a player program and which includes a unique identifier  
9 that is assigned to the softgood before the softgood is distributed, comprising the steps of:

10 (a) enabling prospective purchasers to preview the softgood with the player program  
11 to a limited extent, prior to deciding to purchase the softgood, wherein during such preview, a prospective  
12 purchaser possesses a complete copy of the softgood, but the player program controls access to the  
13 softgood and allows the prospective purchaser only limited access to the softgood;

14 (b) enabling purchase of the softgood from within the player program by  
15 connecting a computer on which the player program is executing with an e-commerce agency to  
16 initiate a network transaction, purchase of the softgood causing data related to the purchase to be  
17 recorded in the database of the e-commerce agency and causing a registration value that references  
18 the unique identifier to be transmitted to the computer on which the player program is executing; and

19 (c) using the player program, registering the softgood on the computer employed  
20 for the network transaction using the registration value provided by the e-commerce agency,  
21 registration of the softgood on the computer enabling the softgood to be played by the player program  
22 beyond the limited extent of the preview, the program player thereafter allowing a purchaser who has  
23 thus purchased the softgood to fully access the softgood.

24 20. (Amended) A method for controlling play of a softgood on a computer using a player  
25 program, said player program also being employed to purchase the softgood through a network  
26 transaction, comprising the steps of:

27 (a) enabling a user to preview the softgood on the computer within the player  
28 program; and

29 (b) enabling the user to purchase the softgood through a transaction conducted  
30 from within the player program, such that after the user has purchased the softgood, the softgood is  
31 registered on the computer using a registration value provided during the transaction, said registration  
32 value identifying a software program used to create the softgood, registration of the softgood on the  
33 computer providing access to the softgood in accord with a license to the softgood so that it is  
34 thereafter playable on the computer with the player program beyond a preview limit.

1           22. (Amended) The method of Claim 2[1]0, wherein if the softgood is transferred to a  
2 different computer after being purchased, the softgood must again be registered on the different  
3 computer to enable the softgood to be played beyond the preview limit on the different computer.

4           23. (Amended) The method of Claim 2[1]0, wherein the registration value includes at least  
5 one of:

- 6                   (a) a unique identifier for the softgood;
- 7                   (b) a unique identifier for the player program;
- 8                   (c) an identifier for a creator of the softgood; and
- 9                   (d) a name of the purchaser of the softgood.

10           24. (Amended) The method of Claim 20, [further comprising] wherein the step of enabling  
11 the user to purchase the softgood through a transaction conducted from within the player program  
12 comprises the steps of:

- 13                   (a) confirming that a financial account number provided by a purchaser is valid  
14 and is approved for purchase of the softgood by checking the financial account number with an  
15 approval service during the transaction; and if the financial account number is valid and approved,
- 16                   (b) transmitting the registration value to the purchaser; and if not,
- 17                   (c) advising the purchaser that purchase of the softgood was disapproved.

18           25. (Amended) The method of Claim 2[1]0, further comprising the step of maintaining a  
19 database on an e-commerce server in which an identification of each purchaser and a list of each  
20 softgood purchased by each purchaser are included, to facilitate distribution of at least a portion of  
21 the purchase price of the softgood to a creator of the softgood, and to store the registration value so  
22 that the purchaser can again reregister the softgood on a computer if the registration of the softgood  
23 on the computer is lost.

24           32. (Amended) A system for facilitating purchase of a softgood of which copies are freely  
25 distributed to prospective purchasers for preview prior to purchase, said softgood [including] having  
26 a unique identifier that is included within the softgood before its distribution, comprising:

27                   (a) a purchaser computer that includes a first processor, a first memory in which a  
28 plurality of machine instructions are stored that implement a plurality of functions when executed by  
29 the processor, a first network interface coupling the computer in communication with a network, at  
30 least one user interface for input of data to the memory, and a display on which graphics and text are  
31 displayed;

32                   (b) a remote computer that includes a second processor, a second memory in  
33 which are stored a plurality of machine instructions that implement a plurality of functions when  
34 executed by the second processor, and in which a database containing data relating to purchases of  
35 softgoods are stored, a second network interface coupling the remote computer in communication  
with the network and thereby selectively coupling the remote computer in data communication with  
the purchaser computer via the network;

1 (c) a softgood comprising machine instructions or media data that are loaded into  
2 the first memory of the purchaser computer, the softgood not including any copy protection that  
3 prohibits the softgood from being freely copied and freely distributed, other of the machine  
4 instructions stored in the first memory comprising a player program that uses the softgood, said  
5 player program carrying out a plurality of the functions when the machine instructions of the player  
6 program are executed by the first processor, including:

7 (i) enabling the softgood to be previewed to a limited extent prior to the  
8 user purchasing the softgood;

9 (ii) enabling the user to purchase the softgood in a transaction with the  
10 remote computer that is conducted over the network;

11 (iii) registering the softgood on the purchaser computer after the softgood  
12 has been purchased, said softgood being thus registered using a registration value provided by the  
13 remote computer; and

14 (iv) checking for [the] a registration of the softgood on the purchaser  
15 computer and enabling the softgood to be used by the player program beyond the limited extent of the  
16 preview only if the softgood is determined to be registered on the purchaser computer; and

17 (d) wherein said plurality of functions implemented by said second processor in  
18 the remote computer include:

19 (i) responding to a request to purchase the softgood received over the  
20 network from the purchaser computer;

21 (ii) confirming an approval of a credit purchase by the user of the  
22 purchaser computer with a credit approval agency that is coupled to the network;

23 (iii) determining the registration value as a function of at least the unique  
24 identifier of the softgood and sending the registration value to the remote computer over the network  
25 to register the softgood on the purchaser's computer; and

26 (iv) allocating a portion of a purchase price of the softgood set by terms of a  
27 prior agreement to a creator of the softgood.

28 35. (Twice Amended) A system for facilitating automated sale of softgoods from which a revenue  
29 stream is returned to each creator of the softgoods, each softgood including a unique identifier, comprising:

30 (a) creator computers that execute at least one software program used by creators  
31 of the softgoods to produce the softgoods and to assign the unique identifier to the softgoods  
32 produced thereby, said creator computers including network interfaces that couple the creator  
33 computers to a publicly accessible network, the creators of the softgoods entering into agreements  
34 with an e-commerce agency in which the e-commerce agency agrees to facilitate the automated sale  
35 of the softgoods and to return a portion of the revenue stream from the automated sale to the creators  
of the softgoods; and

(b) a server computer operated by the e-commerce agency, said server computer



1 maintaining a database in which data relating to the softgoods are stored, said data including unique  
2 identifiers for the softgoods, said server computer also including a network interface coupling the server  
3 computer in communication with the publicly accessible network and receiving the unique identifier  
4 for each softgood from one of:

5 (i) the creator computers before distribution of the softgood to prospective  
6 purchasers; and

7 (ii) a user of the softgood at a sale of the softgood, a purchase of a softgood being  
8 initiated when a softgood is being used, said purchase by a user of the softgood causing the server  
9 computer to confirm approval of a credit transaction for the user by an on-line communication with a  
10 credit approval agency, and if the credit transaction is approved, to transmit a registration value over  
11 the publicly accessible network to a computer of the user to register the softgood on the computer of  
12 the user, to enter data related to the purchase within the database, whereas without the registration  
13 value, a user is allowed only limited access to the softgood.

14 Please add new claims 45-47 as follows:

15 --45. A method for facilitating automated sale of softgoods, comprising the steps of:

16 (a) providing to a creator of the softgoods a composer program that automatically  
17 includes a unique identifier in each softgood before the softgood is distributed to prospective  
18 purchasers, said unique identifier specifically referencing the creator of the softgoods, such that  
19 softgoods created using the composer program:

20 (i) require a specific player program to be accessed; and  
21 (ii) do not include any copy protection that prohibits the softgood from  
22 being freely copied and freely distributed;

23 (b) providing an agency that implements softgood purchase transactions and  
24 maintains a database in which data relating to the sale of softgoods are stored, unique identifiers of  
25 the softgoods being referenced in the database to track the softgood purchase transactions, such that  
26 whenever a softgood is purchased, the agency provides a registration value corresponding to the unique  
27 identifier for the softgood purchased to a computing system used to purchase the softgood;

28 (c) providing the specific player program to prospective purchasers, such that each  
29 time the specific player program is used to play a softgood created using the composer program, the  
30 specific player program automatically:

31 (i) checks the computing system on which the specific player program is  
32 executing, to determine if a registration value corresponding to the unique identifier for the softgood has  
33 been provided to said computing system, and if so, plays the softgood, providing access to its full range of  
34 benefits; but

35 (ii) if the registration value has not been provided to the computing system,

1 only enabling playing of the softgood in a preview mode, and prompting a user to purchase the  
2 softgood in a transaction with the agency; and

3 (d) distributing the softgoods to prospective purchasers, such distribution not  
4 being limited to distribution over a private network.

5 46. The method of Claim 42, wherein if the registration value has not been provided to the  
6 computing system, the specific player program automatically communicates with the agency to  
7 determine if the unique identifier for the softgood is associated with a purchase of the softgood made  
8 by a purchaser who is an authorized user of the computing system on which the specific player  
9 program is resident, and if so, plays the softgood with its full range of benefits.

10 47. A system for facilitating purchase of a softgood of which copies are freely distributed  
11 to prospective purchasers for preview prior to purchase, said softgood having a unique identifier that  
12 is included within the softgood before its distribution, comprising:

13 (a) a purchaser computer that includes a first processor coupled to a first memory  
14 in which a plurality of machine instructions are stored that implement a plurality of functions when  
15 executed by the first processor, a first network interface coupling the purchaser computer in  
16 communication with a network, at least one user interface for input of data to the first memory, and a  
17 display on which graphics and text are displayed;

18 (b) a remote computer that includes a second processor coupled to a second  
19 memory in which are stored a plurality of machine instructions that implement a plurality of  
20 functions when executed by the second processor, and in which a database containing data relating to  
21 purchases of softgoods are stored, a second network interface coupling the remote computer in  
22 communication with the network and thereby selectively coupling the remote computer in data  
23 communication with the purchaser computer via the network;

24 (c) the softgood comprising machine instructions or media data that are loaded  
25 into the first memory of the purchaser computer and not including any copy protection that prohibits  
26 the softgood from being freely copied and freely distributed, wherein other of the machine  
27 instructions stored in the first memory comprise a player program that uses the softgood, said player  
28 program causing the first processor to carry out a plurality of the functions when the machine  
29 instructions of the player program are executed by the first processor, including:

30 (i) determining if a registration value corresponding to the unique  
31 identifier of the softgood that is to be played has been provided to the purchaser computer, and if so,  
32 playing the softgood so as to provide access to its full range of benefits;

33 (ii) if a registration value corresponding to the unique identifier of the  
34 softgood that is to be played has not been provided to the purchaser computer, communicating with  
35 the database on the remote computer over the network to determine if an authorized user of the

1 purchaser computer has previously purchased the softgood that is to be played, and if so, playing the  
2 softgood so as to provide access to its full range of benefits; and

3 (iii) if a registration value corresponding to the unique identifier of a  
4 softgood that is to be played has not been provided to purchaser computer on which the player  
5 program is resident, and if no authorized user of the purchaser computer has previously purchased the  
6 softgood that is to be played, playing the softgood so as to provide a limited access, to enable a preview  
7 of the softgood, and enabling a user of the purchaser computer to purchase the softgood in a  
8 transaction with the remote computer that is conducted over the network, such that when a softgood  
9 is purchased, a registration value corresponding to the unique identifier of a softgood is received with  
10 the softgood; and

11 (d) wherein said plurality of functions implemented by said second processor in  
12 the remote computer include:

13 (i) responding to a request to purchase the softgood received over the  
14 network from the purchaser computer;

15 (ii) confirming an approval of a credit purchase by the user of the  
16 purchaser computer with a credit approval agency that is coupled to the network;

17 (iii) determining the registration value as a function of at least the unique  
18 identifier of the softgood;

19 (iv) sending the registration value to the remote computer over the network  
20 to register the softgood on the purchaser's computer; and

21 (v) allocating a portion of a purchase price of the softgood set by terms of a  
22 prior agreement to a creator of the softgood.--